

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

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RENY RIVERO,

Case No. 1:13-cv-3359-ENV-LB

Plaintiff,

- against -

AMERICA'S RECOVERY SOLUTIONS, LLC, and  
MAINSAIL PORTFOLIO FUND I, LLC,

Defendants.

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**MOTION FOR LEAVE TO WITHDRAW APPEARANCE FOR  
DEFENDANT AMERICA'S RECOVERY SOLUTIONS, LLC**

Sergio Alves ("Movant"), pursuant to Local Civil Rule 1.4, hereby moves this Court for an order granting him leave to withdraw his appearance and representation as counsel for Defendant America's Recovery Solutions, LLC ("ARS") in this matter. In support of this Motion, Movant states:

1. Movant, at the direction of ARS's counsel, Moss & Barnett, P.C., entered his appearance and filed an Answer to Plaintiff's Complaint on ARS's behalf, on October 2, 2013.
2. Thereafter, Movant and Moss & Barnett attempted numerous times to contact the principal for ARS, Mr. Edmund Heartstedt, in order to prepare ARS's defense in this matter, without success. Written correspondence directed to Mr. Heartstedt has been returned as undeliverable and emails directed to Mr. Heartstedt have gone largely unanswered.
3. On January 30, 2014, Movant was able to reach Mr. Heartstedt by telephone and arranged for a conference call to discuss this matter. On February 3, 2014, Mr. Heartstedt, Michael S. Poncin of Moss & Barnett, and Movant participated in a conference call, during

which counsel again reiterated the importance of preparing ARS's defense and maintaining regular communications.

4. Since the time of that call, ARS has failed to provide counsel with additional information or communications in order to assist with its defense.

5. New York Rule of Professional Conduct 1.16(c)(7) provides that counsel may withdraw from representation where a client "fails to cooperate in the representation or otherwise renders the representation unreasonably difficult for the lawyer to carry out employment effectively."

6. Based upon these circumstances, Movant respectfully requests that this Honorable Court permit him to withdraw his appearance for ARS.

7. On March 24, 2014, Mr. Poncin directed a letter to ARS on behalf of Moss & Barnett and Movant, advising that Movant would be seeking leave to withdraw his appearance in this matter.

8. ARS will not be unduly prejudiced if Movant is granted leave to withdraw from representation in this case, in that it has not yet been scheduled for trial.

9. Movant is aware that he must take such steps necessary to protect his client's interests and allow time for it to employ other counsel in this matter.

10. Accordingly, Movant respectfully requests that this Court order a stay of this matter for approximately thirty (30) days in order to allow substitute counsel of ARS to enter an appearance in this matter. In addition, Movant requests that ARS's time to respond to Plaintiff's Amended Complaint be extended for a period of fourteen (14) days following substitute counsel's appearance.

11. Pursuant to Local Civil Rule 1.4, Movant represents that he is not asserting a retaining lien in connection with this matter.

**WHEREFORE**, Movant, the attorney of record for Defendant America's Recovery Solutions, LLC in this matter, respectfully requests that this Court issue an order permitting him to withdraw from further representation of Defendant, effective as of the date of the Court's order.

Dated: Valhalla, New York  
April 15, 2014

/s/ Sergio Alves  
Sergio Alves  
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**CERTIFICATE OF SERVICE**

I hereby certify that on April 15, 2014, the foregoing document was filed with the Clerk of the Court and served in accordance with the Federal Rules of Civil Procedure, and/or the Eastern District's Local Rules, and/or the Eastern District's Rules on Electronic Service, upon the following parties and participants:

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/s/ Sergio Alves  
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